

### **Remarks**

Applicants request entry of this amendment prior to examination. This application is a divisional CPA of application number 09/533,029. The examiner was previously examining the subject matter of original claims 1-13, drawn to a transformation method and transgenic plant, and transcription factor sequences. Applicants had to elect one family of transcription factors in response to an Office Action, (Paper No. 2, mailed July 21, 2000), and applicants elected the MYB family, with traverse.

The claims presented here are drawn to the AP2 family of genes ("family e" as listed in the July 21, 200 Office Action). Any changes from the previous claims are not for reasons of patentability. Applicants reserve the right to seek patents for subject matter not currently being examined. No new matter enters by the amendments to the claims.

Support for the new claims can be found in the specification as a whole. Each recitation in the new claims finds specific support in the specification. For example, page 8, line 1 refers to the AP2 domain transcription factor family. The specification at pages 5-6, for example, identifies polynucleotide and polypeptide sequences and representative names, and the specification at Figure 1, for example, identifies the sequences that comprise an AP2 conserved domain. Also, page 6, line 5 defines a conserved domain and lists the domain types that can be included. Example VI, page 25, lines 4-9 describes the increased resistance to infection of transgenic plants when an AP2 transcription factor sequence, for example, G19, is overexpressed. Other traits relating to tolerance are described at page 6, line 29 through page 7, line 19. The specification at, for example, page 4, line 37 to page 5, line 2 states that the sequences can be identified and selected by the presence of at least 6 amino acids from, for example, a comparison window (for example, page 11, lines 14-20). Page 11 also lists one of many references describing a method for identifying and using such a window one of skill in the art could have used. Thus, the new claims are adequately supported by the specification.

In addition, applicants have clarified a few of the terms the Examiner noted from the previous claims. Original claims 5 and 13 were rejected under 35 U.S.C. § 112, second paragraph, because the term "altering" was allegedly unclear. Applicants disagree, and respectfully submit that one of skill in the art would understand this term to mean modifying the

disease tolerance or resistance, for example, of a plant compared to plants that have not been transformed. Numerous methods for detecting an alteration are noted in the specification. Thus, in light of the specification, applicants submit the Examiner's reasons for objecting to the term "altering" cannot establish that one of skill in the art fails to understand what it means. In addition, the term "enhancing" has been used in new claim 34, and the claims also include the phrase "compared with the same trait of another plant lacking the recombinant polynucleotide." This wording finds support in the specification as a whole and, for example, at pages 6 and 7.

Original claim 9 was also rejected under 35 U.S.C. § 112, second paragraph, because the method step (b) was not deemed necessary. This step has been removed in the new claims.

Applicants respectfully request entry of the foregoing amendments. Applicants respectfully submit that this application is in condition for allowance.

Applicants are submitting a filing fee for a CPA in accordance with 37 C.F.R. §§ 1.53(d)(3) and 1.16, and an extension of time and fee. If any additional fees, petitions, or requests for extension of time are required in order to enter or consider this paper, enter or consider any of the claims submitted, enter or consider any paper accompanying this paper, or keep this application or the previous application pending, applicants hereby request that the petition or request be granted and applicants' representative hereby authorizes the Commissioner to charge our Deposit Account No. 50-1129 for any fees.

Respectfully submitted,  
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